

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

COSMO ALLEN LEE BYRD,  
Plaintiff,  
v.  
TUOLUMNE COUNTY SHERIFFS, et al.,  
Defendants.

) No.: 1:21-cv-00559-NONE-SAB (PC)  
)  
)  
)  
) ORDER ADOPTING FINDINGS AND  
) RECOMMENDATIONS AND DISMISSING  
) ACTION  
) (Doc. No. 9)  
)  
)

Plaintiff Cosmo Allen Lee Byrd is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 19, 2021, the assigned magistrate judge issued a screening order granting plaintiff leave to file a first amended complaint or notice to proceed only on the excessive force claim within thirty days. (Doc. No. 6.) Plaintiff was warned that failure to comply with the court's order would result in a recommendation for dismissal of this action for failure to prosecute and failure to obey a court order and for failure to state a claim. (*Id.* at 11.) Plaintiff did not file an amended complaint or otherwise communicate with the court.

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1       Therefore, on August 30, 2021, the magistrate judge issued an order for plaintiff to show cause  
2 why the action should not be dismissed within fourteen days. (Doc. No. 7.) Plaintiff did not respond  
3 to the order to show cause. Consequently, on September 22, 2021, the magistrate judge issued  
4 findings and recommendations recommending dismissal of the action. (Doc. No. 9.) Those findings  
5 and recommendations were served on plaintiff and contained notice that any objections thereto were to  
6 be filed within fourteen days after service. (*Id.* at 4.) Plaintiff has not filed objections, and the  
7 deadline to do so has now passed.

8       In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a *de*  
9 *novo* review of the case. Having carefully reviewed the entire file, the court concludes that the  
10 magistrate judge's findings and recommendations are supported by the record and by proper analysis.

11       Accordingly,

- 12       1.       The findings and recommendations issued on September 22, 2021, (Doc. No. 9), are  
13               adopted in full;
- 14       2.       This action is dismissed due to plaintiff's failure to prosecute and failure to obey a  
15               court order, and failure to prosecute; and
- 16       3.       The Clerk of the Court is directed to assign a district judge to this case for the purpose  
17               of closing the case and then to close this case.

18       IT IS SO ORDERED.

19       Dated: October 18, 2021

  
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UNITED STATES DISTRICT JUDGE